

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHANDRA KISHOR,

Plaintiff,

v.

JOHN STOLLER, *et al.*,

Defendants.

No. 2:23-cv-01356-TLN-JDP (PC)

ORDER

Plaintiff, a county jail inmate proceeding pro se, filed a civil rights action pursuant to 42 U.S.C. § 1983 together with a request for leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. However, the certificate portion of the request which must be completed by plaintiff's institution of incarceration had not been filled out and plaintiff had not filed a certified copy of the inmate trust account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C. § 1915(a)(2). Therefore, I provided him thirty days to submit a completed *in forma pauperis* application and a certified copy in support of the application. ECF No. 9.

Plaintiff has not complied with that order, and instead, has filed a motion for an extension of time to file an *in forma pauperis* application. ECF No. 10. In addition to requesting additional time, plaintiff argues that the filing fee should be waived and cites to an unpublished California Court of Appeal case, *People v. Duenas*, 30 Cal. App. 5th 1157, 1164 (2019). ECF No. 10-1 at 1.

1 *Duenas*, however, does not excuse plaintiff from paying the filing fee in federal court. *See id.*
2 (holding that “due process of law requires the trial court to conduct an ability to pay hearing and
3 ascertain a defendant’s present ability to pay before it imposes court facilities and court
4 operations assessments under . . . section 1465.8 and Government Code section 70373”).
5 Accordingly, plaintiff will be granted thirty days from this order’s issuance to submit a completed
6 *in forma pauperis* application or pay the filing fee.

7 In accordance with the above, IT IS HEREBY ORDERED that:

8 1. Plaintiff’s motion for an extension of time to submit an application to proceed *in forma*
9 *pauperis*, ECF No. 10, is granted.

10 2. Plaintiff shall submit, within thirty days from the date of this order, a completed
11 affidavit in support of the request to proceed *in forma pauperis* on the form provided by the Clerk
12 of Court, and a certified copy of the inmate trust account statement for the six-month period
13 immediately preceding the filing of the complaint.

14 3. The Clerk of Court is directed to send plaintiff a new Application to Proceed In Forma
15 Pauperis By a Prisoner.

16 4. Plaintiff’s failure to comply with this order may result in a recommendation that this
17 action be dismissed without prejudice.

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19 IT IS SO ORDERED.

20 Dated: September 11, 2023

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22 JEREMY D. PETERSON
23 UNITED STATES MAGISTRATE JUDGE
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